

Appl. No. 10/657,467

Reply to Office Action of June 16, 2005

REMARKS

In the Office Action, the title is objected to; claims 18-19 are rejected under 35 U.S.C. §112, second paragraph; and claims 16-22, 24, 26 and 28 are rejected under 35 U.S.C. §103(a). Claims 1-15, 23, 25 and 27 have previously been withdrawn due to a restriction requirement. Claims 18-19 are amended herein. Applicants believe that the rejections are improper or have been overcome for at least the reasons below.

In the Office Action, claims 18-19 are rejected under 35 U.S.C. §112, second paragraph. Specifically, the Examiner objects to the use of the term oxide in describing a nitride oxide based III-V compound semiconductor. In response, Applicant has amended claims 18-19. Applicant notes that the amendments were intended for clarification purposes and not intended to have a narrowing effect on the scope of the claimed subject matter. In this regard, Applicant does not intend to disclaim or surrender any subject matter as claimed in view of same. Therefore, Applicant believes that the rejection has been overcome and thus should be withdrawn.

In the Office Action, claims 16-21, 24, 26 and 28 are rejected under 35 U.S.C. §103(a) in view of U.S. Patent No. 6,881,982 to Okuyama et al. ("*Okuyama*") and U.S. Patent Publication No. 2002/0074561 to Sawaki et al. ("*Sawaki*"). In addition, claim 22 is rejected under 35 U.S.C. §103(a) in view of *Okuyama* and *Sawaki*, and in further view of U.S. Patent Publication No. 2003/0087467 to Oohata et al. ("*Oohata*"). Applicants believe that the primary *Okuyama* reference and the *Oohata* reference should be precluded as prior art.

To the extent that they qualify as prior art under §102(e), *Okuyama* and *Oohata* cannot preclude patentability of the claimed invention pursuant to 35 U.S.C. § 103. Indeed, *Okuyama*, *Oohata*, and the present application, were at the time the invention of the present application was made, subject to an obligation of assignment to the same assignee, namely, SONY CORPORATION. Therefore, Applicant respectfully submits that *Okuyama* and *Oohata* may not be relied on as §102(e) prior art under 35 U.S.C. §103(c).

Moreover, Applicants do not believe that *Okuyama* and *Oohata* can be applied as §102(a) prior art where the earliest effective prior publication dates are October 10, 2002 and May 8, 2003, respectively, and where the earliest effective filing date of the claimed invention is September 6, 2002 based on the priority filing date of Japanese Application No. 2002-261407,

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thus predating both *Okuyama* and *Oohata*. With *Okuyama* and *Oohata* removed as prior art, the obviousness rejections in view of same and further in view of *Sawaki* should be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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